IV. B. 25. Asbestos

a) Background. Asbestos was used heavily in the past in many construction industries (i.e. military, firefighting, appliances, building materials, etc.) because of its great effectiveness in providing fire resistance at very high temperatures. Unfortunately, an associated negative aspect was learned in later years when asbestos workers began developing lung diseases as a result of exposure to microscopic asbestos fibers. Much Federal legislation has been enacted subsequently to regulate the presence of asbestos in industry, schools, and other public buildings as well as in appliances and asbestos abatement practices. Federal agencies directly involved with the regulation of asbestos include the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Administration (OSHA), the U.S. Food and Drug Administration (FDA), the U.S. Mine Safety and Health Administration (MSHA), and the U.S. Consumer Product Safety Commission (CPSC).

Asbestos is recognized as an immediate health hazard when it is in a "friable" condition where it is crumbly and easily released into the atmosphere. It is potentially dangerous in the development of lung diseases because of its extremely microscopic size and related properties. It has been noted that it would take a three feet long strand of asbestos approximately eight hours to drop to the floor. Friable asbestos should be abated in accordance with EPA guidelines (by a Colorado licensed asbestos abatement contractor) as part of any Rural Development loanmaking or property disposition action. Asbestos abatement is disruptive and relatively expensive as it involves the temporary construction of pressurized areas where abatement operations are performed.

Asbestos fibers (unmagnified)

Rural Development personnel should investigate as appropriate for the presence of asbestos in properties intended for loanmaking, leasing, or for transfer and should take necessary steps to mitigate it or warn prospective buyers about its presence if properly confirmed. Older properties are of special concern as many of the materials employed in their construction predate the implementation of regulation of the industry.

b) Governing Regulations.

(1) Federal.

(a) Asbestos School Hazard Abatement Act of 1984.

(b) Asbestos Hazard Emergency Response Act.

(c) U.S. Executive Order 11514, Protection and Enhancement of Environmental Quality.

(d) National Environmental Policy Act, 42 U.S.C. 4321.

(e) Title 7, Part 1b and 1c, Code of Federal Regulations, U.S. Department of Agriculture's National Environmental Policy Act.

(2) State.

(a) Colorado Air Quality Control Commission, Regulation No. 8, Part B, "Asbestos Control".

c) Policy. It is likely that some Rural Development personnel, applicants, and borrowers may become involved with the presence of asbestos-containing materials and may require direction regarding how to deal with it.

There is no level of exposure to asbestos fibers that experts can assure is completely safe. In order to be a health risk asbestos fibers must be released from materials into the air for people to breathe. Soft, crumbled asbestos-containing materials, termed "friable", present the greatest potential for release and , therefore, pose the greatest health hazard. It is definitely more prevalent in older examples of building materials and appliances. Its mitigation is very complex, involving containment, dust control, encapsulation, and proper disposal and is beyond the capabilities of most homeowners and small contractors. Only EPA approved measures and Colorado Department of Public Health and Environment (CDPHE) certified contractors should be utilized for its mitigation.

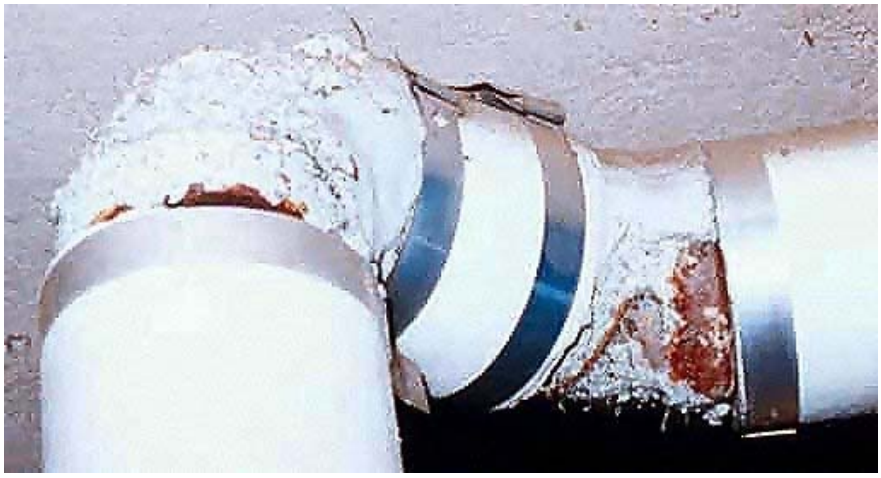
Interested parties should be advised to obtain copies of the following EPA and CPSC general information publications:

(1) *"Asbestos in the Home".*

(2) *"Asbestos Fact Book".*

They are available from the EPA and the CPSC.

Rural Development Property Dispositions. Whenever an existing dwelling suspected to contain friable asbestos material(s) becomes available for sale or transfer, the questionable materials should be verified through laboratory analysis.


Friable asbestos on an asbestos wrapped pipe

Should the presence of friable asbestos be verified, the property should either be (1) mitigated in accordance with EPA regulations, if intended for transfer and if feasible, or (2) be declared not meeting the Decent, Safe, and Sanitary standards defined in subparagraph 1955.103(f) of Rural Development Instruction 1955-C, if intended for sale. If intended for sale, it should be sold with a written warning containing the following language,

> ***"This property has been tested and found to contain friable asbestos materials. Asbestos has been shown to cause cancer of the lung and stomach according to the U.S. Environmental Protection Agency and may cause adverse health effects in a certain portion of the general population. . The purchaser is cautioned to be aware of this potential health hazard and to exercise appropriate measures, including possible remedial actions, to safeguard human health within the property."***

This statement should be placed within the text of a restrictive clause to the Quitclaim Deed.

Additionally, the purchaser should be advised to obtain copies of the two EPA documents mentioned above.

Asbestos workers wearing full-face respirators during mitigation operations

Should the lack of the presence of friable asbestos be verified, no further action regarding asbestos is required.

d) Classification.

Not formalized by either the EPA or the CDPHE, however, EPA considers any presence of asbestos which could become airborne to be a definite health risk to humans.

e) Agency Jurisdiction: Five federal agencies have major authorities to regulate asbestos:

(1) U.S. Environmental Protection Agency (EPA). The EPA regulates the use and disposal of toxic substances in air, water, and land including asbestos that is classified by EPA as a "Special Waste".

(2) U.S. Occupational Safety and Health Administration (OSHA). The OSHA sets limits for worker exposure to asbestos on the job.

(3) U.S. Food and Drug Administration (FDA). The FDA is responsible for preventing asbestos contamination in food, drugs, and cosmetics.

(4) U.S. Mine Safety and Health Administration (MSHA). The MSHA regulates mining and milling of asbestos.

(5) U.S. Consumer Product Safety Commission (CPSC). The CPSC regulates asbestos in consumer products.

Regulatory activity pertaining to asbestos has been ongoing. In 1973 EPA prohibited the spraying of asbestos-containing materials for insulation, fire protection, and soundproofing. In 1975 EPA prohibited the use of asbestos for pipe covering if the material is easily crumbled after it dries. In 1977 the CPSC banned two asbestos-containing products: patching compounds and artificial fireplace emberizing materials (ash and embers). In 1982 the EPA issued the Asbestos-In-Schools Identification and Notification Rule which required all local education agencies to inspect for friable asbestos materials; to notify parents and teachers if such materials are found; to place warning signs in schools where asbestos is found; and to keep accurate records of their actions to eliminate the problem. Congress passed the Asbestos School Hazard Abatement Act of 1984 to help those schools with the most serious hazards and the greatest financial need.

Following are U.S. Environmental Protection Agency contacts regarding asbestos abatement:

U.S. Environmental Protection Agency
Region VIII Office
(8ENF-T)
999 18th. Street
Suite 300
Denver, Colorado 80202-2466

Contact: Robert Vick, Regional Asbestos Manager @ (303) 312-6024

http://www.epa.gov/unix0008/toxics_poisons/asbestos

The State level contact with regard to the proper disposal of asbestos materials and with regard to State certified asbestos abatement contractors is:

Colorado Department of Public Health and Environment
Air Pollution Control Division
Asbestos Compliance Assistance Group
4300 Cherry Creek Drive South
Denver, Colorado 80246

Contact: Tom Bain @ (303) 692-3182

http://www.cdphe.state.co.us

Additional information about analytical laboratories and asbestos mitigation is available from the U.S. Consumer Product Safety Commission at:

(800) 638-CPSC

http://www.cpsc.gov/indexmain.html

f) Location of Resource. Asbestos is a naturally-occurring fibrous material. Invisible microscopic fibers can become airborne (especially when the asbestos material is "friable", or easily crumble by hand) and inhaled into the lungs. Lung cancer, asbestosis, misothelioma, and other respiratory diseases may result. Asbestos must be confirmed through laboratory analysis.

Its presence is widespread in building materials and appliances, more so in older installations as it is gradually being phased out by federal government. Following are some examples of previous installations where it might exist:

(1) Vinyl-asbestos tile flooring.
(2) Sheet vinyl flooring.
(3) Patching compounds
(4) Textured paints.
(5) Textured ceilings.
(6) Stove insulation.
(7) Furnace insulation.
(8) Stove door gaskets.
(9) Furnace door gaskets.
(10) Oven door gaskets.
(11) Hot water and steam pipe insulation.
(12) Wall insulation.
(13) Ceiling insulation.
(14) Heating appliances:
    Toasters.
    Popcorn poppers.
    Broilers.
    Slow Cookers.
    Dishwashers.
    Refrigerators.
    Ovens.
    Ranges.
    Clothes dryers.
    Electric blankets.
(15) Roof and siding shingles.
(16) Ceiling tiles.

g) Other References.

(1) U.S. Environmental Protection Agency. *"Frequently Asked Questions about Asbestos"*

(Web-site)

http://www.epa.gov/unix0008/toxics_poisons/asbestos/asbesfaqs.html

(2) U.S. Environmental Protection Agency. *"Asbestos Publications"*

(Web-site)

http://www.epa.gov/unix0008/toxics_poisons/asbestos/asbespub.html

(3) U.S. environmental Protection Agency. *"National Asbestos Registry System (NARS)"*

(Web-site)

http://www.epa.gov/occa/eptdd/navs.html